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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,189	08/18/2003	Clifton Lind	988.1041	3668
35236	7590	09/25/2006	EXAMINER	
THE CULBERTSON GROUP, P.C. 1114 LOST CREEK BLVD. SUITE 420 AUSTIN, TX 78746			NGUYEN, BINH AN DUC	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,189

Applicant(s)

LIND ET AL.

Examiner

Binh-An D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/28/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Amendment filed June 28, 2006 and the Information Disclosure Statement filed July 26, 2006 have been received. According to the Amendment, the specification and claims 26, 32, and 33 have been amended. Currently, claims 25-42 are pending in the application. Acknowledgment has been made.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 32, 33, 39, 40, and 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Rothschild (2004/0166940).

Referring to claims 32, 39, and 42, Rothschild teaches a gaming system and method (having player detection steps thereto) comprising: a gaming machine (12 or 14) including a game presentation arrangement capable of producing a respective game presentation for any one of a number of different games, the gaming machine capable of being located in a hotel room (paragraph 22); a player data collection arrangement for detecting that a person has been assigned to the hotel room in which

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the gaming machine is located (utilizing hotel/casino database 40c)(paragraph 32) and for storing player preference information for the person assigned to the hotel room (accessing hotel using player tracking card, paragraphs 31-33); a system configuration arrangement for producing a system configuration command based on the player preference information for the person assigned to the hotel room (paragraphs 22, 24, 30); and a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for responding to the system configuration command by communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to produce a game presentation specified by the presentation switching instructions (setting player preference to gaming machine utilizing player game preference stored in the player tracking system, paragraph 31).

Referring to claims 33 and 40, wherein the detecting arrangement detects that the person has been assigned to the hotel room by receiving room check-in information, this limitation is inherent from Rothschild's teaching of utilizing casino/hotel database to detect player (paragraph 32).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-31, 34-38, and 41, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothschild (2004/0166940) in view of Sizer et al. (5,923,252).

Referring to claims 25, 31, 34, and 38, and 41, Rothschild teaches gaming system and method comprising: a gaming machine (12 or 14) including a game presentation arrangement, capable of producing a respective game presentation for any one of a number of different games; a player data collection arrangement for storing player preference information for the player (40f, 40c)(Fig.1); a system configuration arrangement for producing a system configuration command specifying a game presentation likely to be favored by the player based on the player preference information for the detected player (paragraph 31); and a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for receiving the system configuration command from the system configuration arrangement and for communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to switch from a first game presentation to the game presentation likely to be favored by the player (utilizing player reference, paragraph 31). Rothschild further teaches the limitation of the gaming machine (14) could be used in a hotel room (paragraph 22); and player detecting arrangement detects the player through a check-in procedure for the hotel room utilizing the casino/hotel data base (paragraph 32). Rothschild does not teach the limitations of player detecting arrangement separate from the gaming machine for detecting a player as the player traverses a gaming facility and approaches an area of the gaming facility

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in which the gaming machine is located; and switching game presentation prior to an arrival of the player at the gaming machine (claims 25, 34, and 41). Sizer et al., however, teaches marketing device and system comprising shopper detecting arrangement separate from the product to be marketed for detecting a shopper as the he/she traverses a detection area and approaches an area of the product marketing facility in which the product is located (abstract, 6:4-46); and product advertising presentation or messages are ensure to be coordinated upon an arrival of the player along the aisle (7:33-8:49; 15:16-35; 16:14-32). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the wireless detection system of Sizer et al. to the gaming network of Rothschild to instantly detect game player in the area to provide gaming advertisement to the player faster and more effective that would attract more game players to play game, thus bring forth profits to the casino.

Referring to claims 26 and 30 and 35, Rothschild teaches a player detecting arrangement includes a player location determining arrangement for determining the location of the player in a gaming facility in which the gaming machine is located (utilizing player tracking card); and wherein the player detecting arrangement detects the player by reading information associated with a player card which is usable by the player in the gaming facility in which the gaming machine is located (reading player tracking card at the gaming machine; the new game presentation includes an attract display tailored for the respective player (player preference))(paragraphs 30-34).

Referring to claims 27-29, 36, and 37, Sizer et al. teaches the player carries an identifying device and wherein the player location determining arrangement includes a reading device for remotely reading identifying information from the identifying device; wherein the player location determining arrangement includes a receiver device for remotely receiving identifying information transmitted from the identifying device; and wherein the player carries a transponder transmitting a player identifying signal, and wherein the player location determining arrangement includes a receiving arrangement for determining the location of the player based upon the player identifying signal; detecting the player includes receiving a transponder signal transmitted from a responder carried by the player (10:6-11:64, 16:14-32).

Response to Arguments

Applicant's arguments filed June 28, 2006 have been fully considered but they are not persuasive.

The Applicants argued that Rothschild does not teach or suggest elements (b), (c), and (d) in claim 32 (Applicants' remarks, page 18 line 14 to page 20, line 3) is deemed not to be persuasive. Rothschild teaches the gaming machine (12 or 14) capable of being located in a hotel room (paragraph 22); a player data collection arrangement for detecting that a person has been assigned to the hotel room in which the gaming machine is located (utilizing hotel/casino database 40c)(paragraph 32) and for storing player preference information for the person assigned to the hotel room (accessing hotel using player tracking card, paragraphs 31-33); a system configuration

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arrangement for producing a system configuration command based on the player preference information for the person assigned to the hotel room (paragraphs 22, 24, 30); and a game modification controller in communication with the system configuration arrangement and with the gaming machine, the game modification controller for responding to the system configuration command by communicating presentation switching instructions to the gaming machine, the presentation switching instructions causing the gaming machine to produce a game presentation specified by the presentation switching instructions (setting player preference to gaming machine utilizing player game preference stored in the player tracking system, paragraph 31). Thus, the gaming system of Rothschild anticipated applicants claimed limitations.

Further, the Applicants argued that Rothschild neither teach or suggest detecting that a player has been assigned to a hotel room which a gaming machine is located and elements (b)-(e) of claim 39 (Applicants' remarks, page 20 line 18 to page 21, line 8), nor the program product of claim 42 (Applicants' remarks, page 21 lines 12-20) is deemed not to be persuasive. As being addressed above, the gaming system arrangement of Rothschild wherein data collection arrangement detecting that a person has been assigned to the hotel room in which the gaming machine is located (utilizing hotel/casino database 40c)(paragraph 32) and for storing player preference information for the person assigned to the hotel room (accessing hotel using player tracking card, paragraphs 31-33); and the system configuration arrangement for producing a system configuration command based on the player preference information for the person assigned to the hotel room (paragraphs 22, 24, 30) is capable of performing the method

steps (a)-(e) of claim 39 as well as claim 42, including switching instructions to cause the gaming machine to produce a game presentation specified by the presentation switching instructions by setting player preference to gaming machine utilizing player game preference stored in the player tracking system. Thus, the claimed method is anticipated by Rothschild.

Furthermore, in response to applicant's argument that there is no suggestion to combine the references (Applicants' remarks, page 22 line 5 to page 23, line 15), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Rothschild teaches gaming system and method including a game presentation arrangement, capable of producing a respective game presentation for any one of a number of different games in a hotel room (paragraph 22); and player detecting arrangement detects the player through a check-in procedure for the hotel room utilizing the casino/hotel data base (paragraph 32); and Sizer et al. teaches a marketing device and system comprising shopper detecting arrangement separate from the product to be marketed for detecting a shopper as the he/she traverses a detection area and approaches an area of the product marketing facility in which the product is located (abstract, 6:4-46); and product advertising presentation or messages are ensure to be coordinated upon an arrival of

the player along the aisle (7:33-8:49; 15:16-35; 16:14-32). It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to provide the wireless detection system of Sizer et al. to the gaming network of Rothschild to instantly detect game player in the area to provide gaming advertisement to the player faster and more effective that would attract more game players to play game, thus bring forth profits to the casino.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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TC 3700